

MEMORANDUM OF AGREEMENT

BETWEEN

**THE FEDERAL HIGHWAY ADMINISTRATION DIVISION OFFICES IN
Connecticut, Maine, Massachusetts New Hampshire, Rhode Island and Vermont**

and

THE FEDERAL TRANSIT ADMINISTRATION, REGION I

BACKGROUND

On September 2, 2003, via joint memorandum, Federal Highway Administrator Mary Peters and Federal Transit Administrator Jennifer Dorn put forth a proposal that the two administrations should develop plans for collaboration initiatives in transportation planning. This effort established a mechanism through which the Federal Transit Administration Region I Office (hereinafter refer to as FTA Region I and as FTA) and the Federal Highway Administration Division Offices in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont (hereinafter referred to as FHWA Division and FHWA) can further improve coordination in implementing program oversight activities and increase efficiency in delivering service to our customers and partners.

The national MOU efforts have been used as a framework for the development of this Memorandum of Agreement (MOA) between the FTA Region I and the FHWA Division Offices.

PURPOSE OF THIS AGREEMENT

The purpose of this Memorandum of Agreement (MOA) is to set forth the general terms and conditions for collaboration in transportation planning between the FHWA Divisions and the FTA Region I pursuant to an initiative undertaken by the Administrators of FTA and FHWA to improve coordination transportation planning processes and to fulfill provisions of 23 CFR 450 and 420 and 49 CFR 613. In addition, areas of collaboration on other programs and responsibilities of mutual interest are identified. This MOA does not preclude the FTA Region I and any individual FHWA Division to form additional or alternative procedures.

GOALS

The FTA Region I and the FHWA Division Offices shall carry out the terms indicated in this MOA to streamline transportation planning decision making for Federal Surface Transportation projects and programs.

The goal of this MOA is to establish a mutually beneficial relationship and to streamline and improve the following transportation planning processes:

- I. *A. Statewide Transportation Improvement Program (STIP) Approvals
*B. STIP Amendment Approvals
- II. *Issuance of Statewide and Metropolitan Planning Findings
- III. *Unified Planning Work Program (UPWP) Approvals

- IV. *Transportation Air Quality Conformity Determinations
- V. *Transportation Management Area (TMA) Planning Certification Reviews
- VI. *Follow up on Corrective Actions Resulting from Certifications Reviews
- VII. *Congestion Management Systems (CMS) and Intelligent Transportation Systems (ITS)
- VIII. **Methods for Communications and Conflict Resolution between FHWA and FTA
- IX. **Regular Planning and Program Coordination Meetings
- X. Civil Rights, Title VI, Disadvantage Business Enterprise (DBE) Certifications
- XI. Meeting Attendance and Representations
- XII. Environmental Streamlining
- XIII. Flex Funding Procedures
- XIV. Congestion Mitigation Air Quality (CMAQ) Funds Eligibility Determinations
- XV. Coordination of the 3 C Planning [Cooperative, Continuous and Comprehensive] Process
- XVI. Project Coordination and Implementation

* Items contained in the September 2, 2003 Memorandum

** Items relating to "Guiding Principles" in the September 2, 2003 Memorandum

I. STIP Approval

BACKGROUND

23 U.S.C and 49 U.S.C establish the Federal requirements for statewide transportation planning. The regulations, 23 C.F.R. 450 and 49 C.F.R. 613, require that at least every two years the State will submit their proposed STIP to the FHWA and FTA for joint approval prior to the obligation of Federal funds made available to the State under Titles 23 and 49. The joint review shall include, but shall not be limited to the requirements of air quality conformity, public involvement, and fiscal constraint.

A. STIP

ROLES AND RESPONSIBILITIES

1. The FHWA shall initiate a joint **30-day review of the STIP by sending an email to FTA**. Coordination with EPA will occur consistent with Section IV of this agreement, as applicable.
2. FTA shall email FHWA of any comments on the STIP within the 30-days.
3. If necessary, FTA or FHWA shall call a meeting during the review period to discuss and resolve any comments relevant to the joint approval of the State's STIP. The agency with comments requiring resolution will document the joint review.
4. Within one week of receipt of comments from FTA or expiration of the 30-day review period, and receipt of comment letter from EPA if applicable, FHWA shall prepare an approval letter for signature by FTA and FHWA. The approval letter will include the statewide and metropolitan planning finding consistent with Section II of the agreement and reference to the FHWA/FTA conformity action on the MPO TIPs upon which the STIP is based, if applicable.
5. The signed letter shall be forwarded to the State by FHWA.

B. STIP Amendments

ROLES AND RESPONSIBILITIES

1. The State shall submit its proposed STIP amendment to the FHWA and FTA for review and approval. Each state shall number its STIP amendments sequentially.
2. Amendments that contain a mix of transit and highway projects or require a revised air quality conformity analysis will require approval from both FTA and FHWA. The procedures for the STIP approval will be followed including the provisions of Section IV of this agreement.
3. Amendments that contain projects specific to only one agency (FTA or FHWA) shall be approved unilaterally by the appropriate agency and a copy of the approval letter will be forwarded to the other agency.

All efforts should be made to **approve STIP amendments within 2 weeks of receiving the amendment or within 2 weeks of receiving complete backup/follow-**

up information from the State. If a revised Air Quality analysis is required, the approval will be in accordance with initial STIP approval procedures and Section IV of this agreement.

II. Issuance of Statewide and Metropolitan Planning Findings

BACKGROUND

23 C.F.R. 450.320 and 49 C.F.R. 613 require a joint Federal finding that each metropolitan planning area is following a continuing, comprehensive transportation planning process carried on cooperatively by the State, MPO and transit operator(s). These findings shall be based on the self-certification by the State and the MPO under 23 C.F.R. 450.334 and 49 C.F.R. 613 and upon other reviews as deemed necessary by FHWA and FTA. These regulations also require that the State include with their proposed STIP a certification that the transportation planning process is being carried out in accordance with the requirement listed in the regulations. The review(s) shall cover, but shall not be limited to, the State/MPO self-certification (required by 23 C.F.R. 450.334(a) and 49 C.F.R. 613).

ROLES AND RESPONSIBILITIES

1. The FHWA shall be the lead in initiating the statewide and metropolitan planning finding upon receiving the draft STIP.
2. The review by both FHWA and FTA shall be **conducted concurrent to the STIP approval.**
3. If necessary, FTA or FHWA shall initiate a meeting to discuss and resolve any significant concerns relevant to the joint finding.
4. The Joint Planning Finding will be incorporated in the joint STIP approval letter prepared by the FHWA.

III. Unified Planning Work Program (UPWP) Approval

BACKGROUND

Section 134 of 23 U.S.C. and Section 613 of 49 U.S.C. established Federal requirements for metropolitan transportation planning. The regulations for implementing these provisions are contained in 23 C.F.R. 450 and 49 C.F.R. 613 and include the requirement for the submission of UPWPs.

ROLES AND RESPONSIBILITIES

Note: Whenever possible, the FTA and FHWA will issue one letter for all TMA and Non-TMA UPWPs in order to streamline the process.

TMA

1. The State shall submit all draft TMA UPWPs to both FHWA and FTA, concurrently.
2. FHWA shall be the lead agency in coordinating the review of the draft UPWPs.
3. Upon receipt of the draft UPWPs, FHWA and FTA shall initiate a **30-day review**. Upon the conclusion of the review, FHWA and FTA will provide comments directly to MPOs or State DOT as appropriate.
4. If appropriate, FTA or FHWA shall initiate a meeting to discuss and resolve any significant concerns relevant to the draft document. Upon receipt of the final UPWP, FHWA and FTA shall be in contact, **within 2 weeks of receipt**, to ensure that all comments have been addressed.
5. If necessary, FTA or FHWA shall initiate a meeting to discuss and resolve any comments not addressed in the final document.
6. Upon receipt of the final UPWPs from the State, a response shall be issued **within two weeks** as a joint FTA / FHWA letter prepared by FHWA for FHWA and FTA signatures.
7. FHWA shall distribute the final letter to the state and either directly to the MPOs or via distribution by the state.

Non-TMA

1. The State shall submit all non-TMA draft UPWPs to both FHWA and FTA, concurrently.
2. The FHWA shall be the lead in reviewing the draft UPWPs.
3. Upon receipt of the draft UPWPs, FHWA and FTA shall initiate a **30-day review**. Upon the conclusion of the review, FHWA and FTA will provide comments directly to MPOs or State DOT as appropriate.
4. FHWA /FTA shall consult with each other on unusual or potentially controversial transit or multimodal related activities.
5. FTA staff shall advise the FHWA of any concerns **within three weeks of receipt of the UPWP**.
6. Upon receipt of the final UPWPs, FHWA and FTA shall be in contact to ensure that all comments have been addressed.
7. FTA or FHWA shall initiate a meeting, if appropriate, to discuss and resolve any concerns not addressed in the final document. A response shall be issued **within two weeks** as part of the joint TMA/non-TMA UPWP approval letter. If non-TMA approvals are not included in joint TMA/non-TMA letter, FHWA shall prepare a final non-TMA UPWP approval letter unless requested by FTA to prepare a joint approval letter based on significant FTA review comments. The approval letter will include the language; "Based on the joint FHWA/FTA agreement regarding approval of UPWPs, this (these) UPWP(s) has (have) also been found to address FTA's policy initiatives and transportation planning requirements cited in the TEA-21 and is (are) approved for FTA planning grant purposes"
8. FHWA shall distribute the final letter to the state and either directly to the MPOs or via distribution by the state.

UPWP Amendment Approval

Any UPWP revision/amendment will be coordinated as outlined above, however, every effort will be made to respond to amendments **within 2 weeks of receipt.**

IV. Transportation Air Quality Conformity Determination

BACKGROUND

Section 176(c)(3) of the Clean Air Act establishes conformity requirements for Long Range Transportation Plans (LRPs), TIPs, and projects in areas designated as nonattainment or maintenance. Section 176 (d) of the Clean Air Act established priority requirements for programs supported by the Federal government in order to provide for timely implementation of eligible portions of air quality plans. Section 109 (j) of 23 USC established consistency requirement to assure that highway plans and programs are consistent with approved plans for air quality.

ROLES AND RESPONSIBILITIES

1. FHWA and FTA will coordinate their air quality conformity determinations consistent with the November 12, 1996 Air Quality Consultation/Coordination Process Memorandum (attached).

Consistent with the process memorandum, the State shall submit copies of endorsed MPO LRPs and TIPs, and their conformity determinations, to the FHWA. FHWA shall ensure that a copy of LRPs and TIPs are forwarded to the Environmental Protection Agency (EPA) and ensure that FTA has received a copy from the MPO or State for concurrent reviews.

2. The EPA shall be given **30 days for review and comment**
3. FTA staff shall advise the FHWA of any concerns **within 30-days of receipt** of the documents.
4. If necessary, FTA or FHWA shall initiate a meeting or teleconference, depending on the impact of the concern on either transit or highways, to discuss and resolve any comments or concerns that arise during the review of the document.
5. The FHWA and FTA shall meet or teleconference with EPA as necessary to resolve pertinent comments that may result from their review.
6. Upon receipt of a concurrence letter from EPA, the FHWA and FTA shall, **within two weeks**, make a conformity finding.
7. The FHWA shall prepare the joint letter to be signed by the FTA Regional Administrator and the FHWA Division Administrator.
8. The FHWA shall forward the signed conformity finding letter to appropriate parties.

V. Transportation Management Area (TMA) Certification Reviews

BACKGROUND

The Transportation Efficiency Act for the 21st Century (TEA-21) requires a joint FHWA/FTA certification of transportation planning process for all Transportation Management Areas (TMA's) at least every three years. A joint certification review along with other documentation and site visits is the basis used for determining that the transportation planning process in a TMA meets or substantially meets the requirement of 23 CFR Part 450 and 49 CFR Part 613.

ROLES AND RESPONSIBILITIES

1. The team shall consist of staff from FHWA, FTA, and if necessary, other technical expertise from other Division or Region offices, Headquarters, Resource Center, or EPA.
2. FHWA and FTA will determine the schedule for certification reviews annually and determine which agency FTA or FHWA will take the lead.
3. The lead agency, FHWA, in consultation with FTA, or FTA, in consultation with FHWA, shall be responsible for the logistics of reviews. This includes establishing schedules, obtaining the material for the desk review, coordination of the desk review assignments, notifying participants, formally announcing the review to the MPO, coordinating MPO preparation of the public notice and preparing the agenda.

When establishing the review schedule, every effort will be made to be consistent with the following timeframes:

- Meet to schedule review date	12 wks prior to site visit
- Initial contact with MPO	10-12 wks prior to site visit
- Send out advance material to MPO	by 9 wks prior to site visit
- MPO responds to advance material	by 6 wks prior to site visit
- Complete desk review & set agenda	by 4 wks prior to site visit
- Conduct site visit/on site review	
- Draft Report	by 4 wks after the site visit
- MPO factual review and comment	2 wks after receipt of draft
- Issue Final Report	Within 2 wks after receipt of MPO comments

4. FTA and FHWA planners shall share responsibilities for leading the topics during the on site review and take responsibility for drafting the sections for which they are the lead and additional sections as agreed.

The lead agency for the logistics of the review shall be the lead in compiling the report, circulating it to the other Federal team members for comment and to the MPO, transit operators, DOT and other participants for factual verification:

5. FHWA shall take the lead in coordinating any corrective actions, recommendations and noteworthy practices from the Federal team unless it is

jointly determined that a specific item or items would be appropriately an FTA responsibility in which case FTA shall take the lead.

6. Should the team identify a corrective action, FHWA and FTA shall jointly determine time frames for the MPO to correct the situation.
7. The lead agency shall also be the lead in coordinating responses to any formal public comments and distributing the final report to all participants in the review, including those participants from the public.

VI. Follow up on Corrective Actions Resulting from Certification Review

ROLES AND RESPONSIBILITIES

FHWA and FTA will monitor MPO progress relative to corrective actions and recommendations as appropriate.

1. If reasonable progress is not being made, FHWA and FTA shall discuss the appropriate action relative to the MPOs progress. Such action could include, setting up a follow-up meeting with the MPO prior to the expiration of the time limit given to correct the corrective actions. .
2. Based on the nature of the corrective action, FHWA or FTA shall take the lead in asking questions and reviewing the status of the action to address the corrective action.
3. Based on the nature of the corrective action, FHWA or FTA shall write a joint letter **within one week of the follow-up meeting** documenting the results of the meeting and whether the corrective actions have been resolved by the MPO.

VII. Congestion Management (CMS) and Intelligent Transportation Systems (ITS)

BACKGROUND

CMS:

Federal legislation and regulations require congestion management systems (CMS) in TMAs. *...In [all] TMAs, the planning process must include the development of a CMS that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies and meets the requirements of 23 CFR part 500. [See 23 CFR 450.320 (c), also see 23 USC 134 (i)(3)]*

ITS:

ISTEA advanced the concept of coordinated regional planning for deploying ITS through funding of "Early Deployment Studies." TEA-21 has incorporated the Early Deployment Concept into the mainstream of MPO planning. TEA-21 states that no ITS projects funded from the Highway Trust Fund (this includes transit projects) may be approved unless they are demonstrated to be consistent with the National Architecture. The Federal Transit Administration and the Federal Highway Administration have published a "Policy" and a "Rule", respectively, on the requirements for conformance of ITS projects to the National ITS Architecture and standards through developing Regional

Architectures. TEA-21 directed MPOs to include ITS strategies as well as specific projects in their LRP and TIP development process.

ROLES AND RESPONSIBILITIES

As part of their annual review of UPWPs FHWA and FTA planners shall monitor the CMS and ITS activities of the MPO.

1. FHWA and FTA shall work with the DOT and MPOs on the development and maintenance of a CMS.
2. FTA and FHWA planners shall continue to emphasize the incorporation of multi-modal CMS planning into LRP and TIP project development.
3. FTA and FHWA planners and ITS contacts shall work with the MPOs and DOT to ensure MPO involvement in preparation of regional ITS architecture and in planning and implementation of regional ITS projects.
4. FTA and FHWA planners and ITS contacts shall maintain open communication regarding regional ITS architecture preparation and regional ITS activities.
5. FTA and FHWA shall encourage the regional ITS planning process to be multimodal and inclusive of a broad range of stakeholders.

MPO CMS and ITS activities shall be reviewed every three years in the TMA areas through the certification review process and on an as needed basis for other MPOs.

VIII. Methods for Communication and Conflict Resolution between FHWA and FTA

BACKGROUND

Historically, FTA Region I and FHWA Divisions have benefited from an excellent working relationship. This MOA intends to build upon this history by establishing a framework to further promote the existing collaboration. Because the FHWA offices are located in each of the six New England States, communications between the two agencies have generally been via e-mails, telephone, teleconferences and face-to-face where practical and appropriate to ensure effective communication. These methods have worked well. However, this MOA will serve to further articulate these procedures for streamlining of communication process:

ROLES AND RESPONSIBILITIES

1. The FTA and FHWA shall continue to communicate using telephone, teleconference, e-mails and formal/informal meetings.
2. The FTA and FHWA planners shall be the points of contact in each agency and shall conduct the initial discussion regarding all planning issues based on the procedures established above.
3. The FTA and FHWA planners shall communicate any joint FHWA/FTA issues or concerns, with others within their own agencies.
4. Draft correspondence shall be forwarded through e-mails.

5. For correspondence of mutual concern to both agencies beyond the actions mentioned in this agreement, each agency shall be responsible for notifying the other agency of incoming correspondence and action items.
6. Each party shall be provided the opportunity to comment on all planning issues relative to their focus area within a reasonable, expedient and mutually agreeable time frame.
7. Draft correspondence shall be reviewed within the time frame requested by the agency preparing the draft correspondence. **A standard of two weeks can be used for response to correspondence unless otherwise noted in this agreement.**
8. All comments and responses to comments should be documented. The FTA and FHWA staff and managers shall notify each other when issues arise, so that there will be a reasonable opportunity for discussion.
9. If the issues remain unresolved and efforts to resolve the issues are exhausted between the affected FTA and FHWA staff and managers, the issues may be escalated to FTA Regional and FHWA Division Administrators. Every effort will be made to reach final resolution within a **maximum of 30 days**.
10. To the maximum extent possible issues involving the two agencies shall be resolved at the Division/Region level. When issues arise that cannot be resolved at the Division/Region level, which affect both agencies, communication may be elevated to respective headquarters offices.

IX. Regular Planning and Program Coordination Meetings

ROLES AND RESPONSIBILITIES

1. FHWA and FTA agree to meet either in person or via teleconference to discuss mutual issues on an ad-hoc basis as needed or appropriate.
2. FHWA or FTA shall take the lead in scheduling meetings as the need arises.
3. Items to be discussed may include planning issues such as MPO issues, flex funds status, funding for projects that may have cross cutting issues such as intermodal terminals, and the identification of corridors for which multi-modal planning may be warranted.
4. In the spirit of the consultative process required by 40 CFR 93.105 and the Air Quality Consultation/Coordination Process of November 12, 1996, (attached) FHWA and FTA shall meet as needed with EPA Region I to discuss air quality issues in the each state.

X. Civil Rights, Title VI, Disadvantage Business Enterprise (DBE) Certification

BACKGROUND

The FTA and FHWA share responsibility or have mutual requirements under the broad heading of Civil Rights in the areas of Equal Employment Opportunity, Disadvantaged Business Enterprises, and Title VI. Some of the applicable regulations include: 23 CFR Part 230 (EEO) and FTA Circular 4704.1 which includes references to 23 CFR Part 200 and 49 CFR Part 26 (DBE).

ROLES AND RESPONSIBILITIES

The FTA Region I and the Division Offices agree to continue to look for ways to coordinate activities relative to:

- Affirmative Action
- State and MPO Title VI Compliance both in statewide and metropolitan planning activities.
- ADA Compliance. All State DOT and MPO must ensure that ADA compliance as required by 49 CFR Parts 27, 37, and 38 is thoroughly addressed and implemented in all aspects of program planning and implementation for all programs, activities, facilities and services.
- DBE Compliance

XI. Meeting Attendance and Representation

ROLES AND RESPONSIBILITIES

1. FHWA planning staff will regularly attend MPO meetings throughout the state
2. Prior to MPO meetings, both FTA and FHWA will review the agenda and FTA will contact FHWA if there are any potential FTA issues that should be discussed at the meeting.
3. Unless there is a particularly contentious transit issue being discussed at the meetings of the MPOs, FHWA will represent U.S. DOT at the meetings. If a transit issue requiring policy or eligibility determinations is raised, FHWA will refer these to FTA.
4. If substantive modal issues (relative to the party not in attendance) are discussed, a brief verbal summary will be given to the party not in attendance.

XII. Environmental Streamlining

BACKGROUND

Section 1309 of the Transportation Equity Act for the 21st Century (TEA-21) mandated Environmental Streamlining as the timely delivery of transportation projects while protecting and enhancing the environment. Environmental Streamlining requires

transportation and natural, cultural, and historic resource agencies to establish realistic timeframes for transportation and environmental resource agencies to develop projects, and then to work cooperatively to adhere to those timeframes. The efficient and effective coordination of multiple environmental reviews, analysis, and permitting actions is essential to meeting the Environmental Streamlining mandate for highway and transit projects under TEA-21. A key element of Environmental Streamlining is communication with and the gathering of input from the public and stakeholders.

ROLES AND RESPONSIBILITIES

1. Both FTA and FHWA shall be supportive of each other's environmental streamlining efforts. Where appropriate, both parties will work with state DOTs to implement MOAs intended to streamline the environmental process.
2. Permitting and resource agencies within our mutual areas of influence will be encouraged to identify and articulate potential issues early in the planning process. Further, such permitting and resource agencies will be encouraged to respond to NEPA documents in the timely manner.
3. When applicable, FTA and FHWA will agree to be a cooperating agency on each other's projects. In such situations, early coordination will be accomplished to identify all possible areas of concern and to agree upon the utilization of appropriate environmental measures.

XIII. Flex Funding Procedures

ROLES AND RESPONSIBILITIES

1. During the periodic planning and programming coordination meetings described in Section IX of this agreement, FTA and FHWA may discuss the status of flex funding. This discussion should include the status of funds in the transfer process, those funds which have been flexed and which are awaiting FTA approval, and the status of funds that have been flexed and awarded by FTA.
2. FTA shall, work to ensure the timely implementation of projects involving flex funding and notify FHWA where problems exist (such as a project funded with flex funds not awarded in two years).

XIV. CMAQ Funds Eligibility

BACKGROUND

Both FTA and FHWA shall be pro-active with the planning partners in non-attainment areas to encourage the optimization of CMAQ funding. To this end, both parties shall encourage projects that have a quantifiable pollution and congestion reduction benefit.

ROLES AND RESPONSIBILITIES

1. The State shall submit a list of all the new CMAQ projects with their calculated emissions benefits to FHWA and FTA. FHWA will ensure that EPA Region I receives the list with supporting documentation. (The submittal of CMAQ

information should be closely coordinated with the air quality conformity review process outlined in Section IV of this agreement.)

2. FHWA and FTA will coordinate their reviews consistent with the November 12, 1996 Air Quality Consultation/Coordination Process Memorandum (attached).

Consistent with this Process, EPA Region I is provided **15-calendar days** to review and comment. **Notification to FHWA is required if an additional 15 days is needed.**

3. FTA shall review all proposed transit projects and FHWA shall review all other projects, and EPA shall review the emissions calculations for projects under EPA's responsibility (sited above from Consultative Process).
4. FTA shall email FHWA of any problems with the projects in the proposed list.
5. Within 15 days of EPA concurrence, FHWA in consultation with FTA shall issue a letter regarding the eligibility of the proposed projects to be funded with CMAQ funds in the TIP.
6. FHWA shall distribute the letter or forward it to the State for distribution to the state air quality partners and the appropriate MPOs.

XV. Coordination of the 3 C Planning [Cooperative, Continuous and Comprehensive] Process

ROLES AND RESPONSIBILITIES

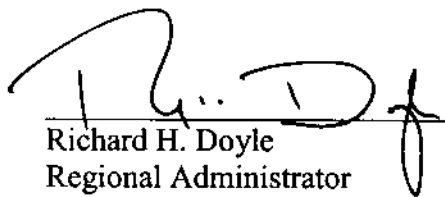
1. FTA and FHWA shall work with the MPOs and DOTs to emphasize the need for multi-modal corridor planning.
2. FTA and FHWA shall encourage public involvement, agency representation, and interagency coordination.
3. FTA and FHWA shall encourage a planning process that is open, professional, and inclusive.
4. The 3 C process shall be reviewed every three years in the TMA areas through the certification review process and when needed (at the option of FHWA/FTA) in the other MPOs. The 3 C process is also reviewed annually as part of the statewide and metropolitan planning finding. (Section III)

XVI. Project Coordination and Implementation


ROLES AND RESPONSIBILITIES

1. If FTA and FHWA have projects being constructed in the same corridor, periodic meetings may be used, as appropriate to share information and to discuss the need for further coordination between the interested parties.
2. The FTA and FHWA planners may decide during these meeting that FTA needs to meet with the appropriate engineering and/or environmental staff from FHWA responsible for the highway project in the multi-modal corridor.
3. If a major project is being studied in a corridor, reports generated by the project sponsor will be made available to FHWA and FTA.

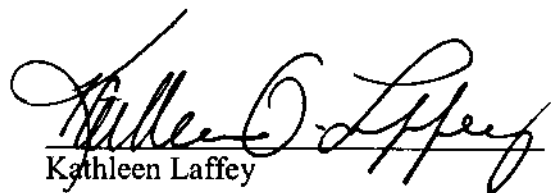
This agreement shall remain in effect indefinitely unless terminated by either party upon a thirty-day written notice to the other party. Either party to this MOA may request that it be amended, whereupon the parties will consult to consider such amendment. This MOA goes into effect with signature and date of all parties.


Richard H. Doyle
Regional Administrator
Federal Transit Administration
Region I


8/9/04
Date


Jonathan McDade
Division Administrator
Federal Highway Administration
Maine Division

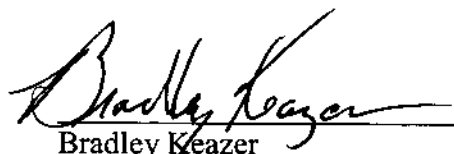
8/6/04
Date


Kathleen Laffey
Division Administrator
Federal Highway Administration
New Hampshire Division

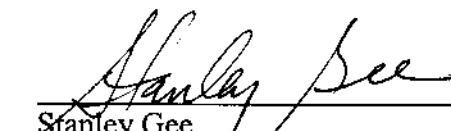
8/9/04
Date


Charles Basner
Division Administrator
Federal Highway Administration
Vermont Division

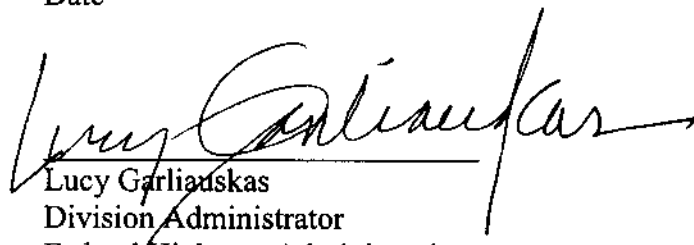
8/9/04
Date


Bradley Keazer
Division Administrator
Federal Highway Administration
Connecticut Division

8/23/04
Date


Stanley Gee
Division Administrator
Federal Highway Administration
Massachusetts Division

8/9/04
Date


Lucy Garlianskas
Division Administrator
Federal Highway Administration
Rhode Island Division

8/12/04
Date

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U.S. ENVIRONMENTAL PROTECTION AGENCY
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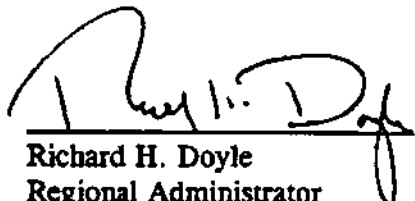
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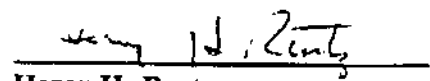
November 12, 1996


This letter transmits the Air Quality Consultation/Coordination Process, which establishes the Federal responsibilities for the Congestion Mitigation and Air Quality Improvement Program (CMAQ) and Air Quality Conformity Determinations. The process has been updated from the original one issued on June 22, 1992. The update reflects a streamlined approach of the Federal coordination on the CMAQ program by identifying several types of projects which will require a minimum review. This effort directly streamlines Federal activities and establishes a better working relationship among the Federal agencies involved. The process will improve Federal response and cooperative/coordinated reviews.

We have worked closely in the development of this document and look forward to the continued cooperative working relationship on the implementation of this process.

Sincerely yours,


Richard H. Doyle
Regional Administrator
Federal Transit Administration


Henry H. Rentz
Regional Administrator
Federal Highway Administration


John P. DeVillars
Regional Administrator
Environmental Protection Agency

**AIR QUALITY CONSULTATION/COORDINATION PROCESS
for**

**1. Congestion Mitigation and Air Quality
Improvement Program (CMAQ)**

**2. Air Quality Conformity Determination
by**

**Federal Highway Administration (FHWA) Divisions
and Region 1**

**Federal Transit Administration (FTA) Region I
Environmental Protection Agency (EPA) Region I**

I. INTRODUCTION

CMAQ--The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, Section 149 of Title 23, United States Code, establishes a Congestion Mitigation and Air Quality Improvement Program (CMAQ) with funding of \$6,000,000,000 over a six-year time period. The FHWA/FTA Headquarters has provided program guidance to FHWA and FTA Regional Administrators with the most recent update on March 7, 1996. The guidance outlines how to implement this funding category. The EPA will coordinate with the FHWA/FTA and States in determining the air quality benefits of States' CMAQ programs. EPA has provided various information on the effectiveness of Transportation Control Measures (TCM) and other types of transportation improvements that will assist transportation and air quality agencies in evaluating and implementing cost-effective transportation measures to attain and maintain national ambient air quality standards. Procedures for consulting with the EPA are necessary to ensure congestion mitigation and air quality improvement projects and programs are likely to contribute to attainment of a National Ambient Air Quality Standard (NAAQS).

CONFORMITY--The 1990 Clean Air Act Amendments (CAAA), Section 176(c)(3), requires Department of Transportation (DOT) conformity determinations on transportation plans, programs, and projects. The CAAA requires EPA, with the concurrence of the DOT, to promulgate criteria and procedures for demonstrating and ensuring conformity in the case of transportation plans, programs, and projects. The EPA Final Rule Air Quality: Transportation Plans, Programs and Projects; Federal or State Implementation Plan Conformity was effective on December 23, 1993. In some States EPA's Transportation Conformity Rule will be supplemented by State-adopted conformity regulations. Eventually, upon EPA approval into the State Implementation Plan, State Transportation conformity rules (consistent with the Federal rule) will supersede EPA's conformity rule.

II. GOAL -- Uniform FHWA Region 1, FTA Region I, and EPA Region I procedure to ensure consistent treatment of all States and Metropolitan Planning Organizations (MPO) and to provide expeditious review and response.

III. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM (CMAQ)

APPLICATION—Prior to project approval, the FHWA Region 1, FHWA Divisions, and FTA Region I will consult with EPA Region I for the States of Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island on CMAQ projects, as stated in the FHWA and FTA March 7, 1996—**Guidance Update on the Congestion Mitigation and Air Quality Improvement (CMAQ) Program**. Vermont (as an ozone, carbon monoxide, and PM-10 attainment area) is encouraged to give priority to the use of CMAQ funds to the development of congestion management systems and implementation of projects and programs produced by that system.

All CMAQ projects must (1) contribute to attainment of a NAAQS (demonstrate an air quality benefit), (2) come from a conforming transportation plan (TP) and transportation improvement program (TIP), (3) be consistent with the conformity provisions contained in Section 176(c) of the CAAA, and (4) satisfy the National Environmental Protection Act (NEPA) process. The FHWA, FTA, and EPA contacts are listed on the last page of this procedure.

CMAQ Projects listing in TIP/STIP—The responsible State Transportation Agency (STA) will send the State Transportation Improvement Program (STIP) to both the FHWA Division and FTA Region I offices. As part of the planning regulations 23 CFR Section 450.216 (a), the MPOs' TIP must be included in the STIP. The FHWA Divisions will send a copy of the applicable CMAQ portion of the TIP/STIP or amendment to the TIP/STIP with supporting documentation for CMAQ projects to EPA Region I, with a copy to FHWA Region 1, at the time the FHWA receives the submittal from the STA. The submittal of CMAQ information by the States to FTA and FHWA (who will forward materials to EPA) should be closely coordinated with the transportation air quality conformity review process. The conformity review for TP, STIP/TIP, and amendments should be made in accordance with Section IV of this process. Final eligibility determination for CMAQ funding is at the time of grant approval or project authorization and follows the below outlined process. FHWA Divisions and FTA Region I will determine specific time schedules for the highway and transit program submissions. These time schedules will be provided to EPA Region I to help in scheduling the review of programs.

CMAQ PROJECT ELIGIBILITY PROCESS—The States/local agency will describe the CMAQ projects by identifying the: 1) location, 2) termini, 3) scope of work, 4) phase of work, and 5) cost estimate. Also, the States will describe how the project will be likely to contribute to the attainment of a NAAQS. EPA Region I will coordinate with FHWA Region 1, FHWA Divisions, FTA Region I, and the States in developing a description of information on air quality analysis and technical support needed for the EPA

review of CMAQ programs. State/Local analyses of CMAQ projects will use air quality model inputs consistent with those in the SIP and inputs used in the conformity process which are acceptable to EPA Region I and State air quality agencies.

Streamlined Process

The projects that are listed below may be considered eligible for CMAQ funding without further consultation with EPA Region I. These projects include:

1. Transportation Control Measures (TCM) included in the approved SIP.
2. The TCMs included in Section 108 (f) (1) (a) of the CAAA except items xii and xvi which are specifically excluded by ISTEA. However, the full review process must be followed for those projects that EPA Region I has determined are not likely to contribute to the attainment of a national ambient air quality standard during review of the conformity determination for the TP, TIP/STIP, or amendment to the TIP/STIP.
3. Construction of bicycle and pedestrian facilities, nonconstruction projects related to safe bicycle use, and State bicycle/pedestrian coordinator positions for promoting and facilitating the increased use of nonmotorized modes of transportation.

The above projects must also meet the basic eligibility criteria for Federal-aid highway or Federal transit program funding and must be included in both a conforming TP and TIP.

Full Review Process

For all other projects eligibility determinations will be as follows:

The FHWA Divisions, FTA Region I, and States' transportation agencies will coordinate the applicable CMAQ projects with the State's air quality agency and EPA Region I as much as possible in advance to allow sufficient time for EPA and the State air quality agencies to review the CMAQ projects.

Upon receipt of the request to authorize a CMAQ or transfer of funds to FTA, the FHWA Divisions will provide the appropriate documentation of the CMAQ project, including the air quality analysis to define air quality impacts, to the EPA Region I for review and comment. This can be done in a variety of ways, including E-mail and fax, depending on the documentation required by EPA Region I to facilitate their review. The EPA Region I will provide comments on the air quality benefits of the CMAQ projects in a timely fashion to the FHWA Divisions. If the EPA Region I requires more than 15 business days

to review a project, the EPA will notify, within that 15-day period, FHWA Divisions of major concerns with a proposed CMAQ project and will express the need for additional information or time needed to complete EPA's review and provide comments to FHWA Divisions/FTA Region 1. Again, the communication can be done on an informal basis, if the comments warrant such a response. The FHWA/FTA may proceed with approval of those projects which EPA Region 1 does not request additional time or information to review. The FHWA Divisions/FTA Region 1 TIP approval or conditional approval action should specifically address each State CMAQ project.

EPA Region 1 comments will be resolved by the FHWA Divisions/FTA Region 1 and State transportation agencies in consultation with FHWA Region 1. Should the EPA Region 1 determine a proposed project is not likely to contribute to the attainment of a NAAQS or have an air quality benefit, the FHWA Division/FTA Region 1 would recommend that the State revise and resubmit the project, or the Division/FTA Region 1 would not authorize the project for CMAQ funding. FHWA Region 1 will be responsible for ensuring the implementation of this coordination procedure for FHWA funded programs. Following initial review by the responsible FHWA/FTA managing agency and consultation with EPA, the managing agency makes the final determination on whether the project or program is likely to contribute to attainment of a NAAQS and is eligible for CMAQ funding. Compliance with this procedure will facilitate and expedite the authorization projects selected for use of CMAQ funds, including the transfer of funds to FTA for final project approval.

FHWA Divisions will consult (when necessary) with FHWA Region 1 on CMAQ projects and prepare all action correspondence to the States and EPA Region 1 (with a copy to FTA Region 1).

CMAQ program revisions should be processed the same as program approval actions.

IV. AIR QUALITY CONFORMITY DETERMINATIONS

APPLICATION— This procedure applies to the joint FHWA/FTA air quality conformity determination of all ozone, carbon monoxide, and PM-10 nonattainment areas in the States of Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island. The **AIR QUALITY: TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS; FEDERAL OR STATE IMPLEMENTATION PLAN CONFORMITY; FINAL RULE** (effective date of December 23, 1993, including subsequent amendments) will be followed. In some States EPA's Transportation Conformity Rule will be supplemented by State-adopted conformity regulations. Eventually, upon EPA approval into the State Implementation Plan, State Transportation Conformity Rules (consistent with the Federal rule) will supersede EPA's conformity rule.

The FHWA, FTA, and EPA contacts are listed on the last page of this procedure.

PROCESS—The MPOs will make a conformity determination on the TP and TIP and send that determination with copies of the TIP to the STA and the FTA Region I as is currently done. Copies of the transportation plan are not required to be submitted as long as the current version is on file at FHWA Divisions and FTA Region I and is referenced in the determination. To facilitate the review, EPA Region I will provide guidance to FHWA Divisions and Region 1, FTA Region I, States, and MPOs for review of the conformity analysis and determination.

The STAs will transmit the determination and each TIP to the FHWA Divisions. The MPOs will transmit the determination and TIP to the FTA Region I. The STAs/MPOs transmittal timing should allow the FHWA/FTA and EPA 30 days to review and act on the conformity determination prior to approval of the State's transportation program. Also, early coordination by State transportation agencies and MPOs with EPA Region I and State air agencies is extremely important to help facilitate their expeditious review of conformity determinations.

FHWA Divisions will send a copy of the MPO's determination and the final TP and/or TIP to EPA Region I for their review and comment. EPA Region I comments will be sent to FHWA Divisions, FHWA Region 1, and FTA Region I. All comments will be satisfactorily resolved by FHWA Divisions and FTA Region I through discussions with FHWA Region 1, EPA Region I, STAs, and MPOs. If the EPA Region I requires more time than the allocated 30 days to review a program, the EPA will notify—within 15 business days—FHWA Division, Region 1, and FTA Region I of major concerns with the TP or TIP and will express the need for additional information or time needed to complete EPA's review and provide comments to FHWA Division and Region 1 and FTA Region I.

FHWA Divisions will prepare correspondence for a USDOT conformity determination with joint FHWA/FTA signatures of the FHWA Division Administrator and the FTA Regional Administrator. The memorandum will be prepared and forwarded to FTA expeditiously (5 business days after receipt or expected receipt of comments) to provide adequate time for signature. FTA Region I will forward signed copies of the conformity determination to the States, MPOs, EPA Region I, FHWA Division, and Region 1 expeditiously (5 business days after receipt). A possible negative determination will be discussed with the State transportation agencies and MPOs as soon as possible. Program revisions and resubmission by the State transportation agency and MPO should be expedited.

The same procedures as above will be used for amended TPs, TIPs, and States' programs containing any project other than those listed in Table 2 of the EPA Final Rule on Air quality: Transportation Plans, Programs, and Projects; Federal or State Implementation Plan Conformity effective date December 23, 1993, as amended.

All projects require a conformity determination statement based in part on project level air quality analysis contained in the project's NEPA documentation. The final conformity action taken on a transportation project during the NEPA process, such as categorical exclusion, finding of no significant impact, or record of decision, completes the conformity process for the project. (The project is not subject to further transportation plan or improvement program conformity determinations, unless NEPA is reopened.)

V. CORRESPONDENCE ADDRESSES

Correspondence should be addressed as follows:

Federal Transit Administration
Region I
John A. Volpe National Transportation
System Center
Kendall Square
55 Broadway, Suite 904
Cambridge MA 02142
Attn: Mr. Max Vigil
(617) 494-2729
Fax: (617) 494-2885
E-Mail: VIGILM@TRO1.DOT.GOV

U.S. Environmental Protection Agency
Region I
Office of Ecosystem Protection (CAQ)
John F. Kennedy Federal Building
Boston, MA 02203
Attn: Mr. Donald Cooke
(617) 565-3508
Fax: (617) 565-4940
E-mail: Cooke.Donald@EPAMAIL.EPA.GOV

Federal Highway Administration
Leo W. O'Brien Federal Building
Room 719--HPP-01
Albany, NY 12207
Attn: Ms. Alicia Nolan
(518) 431-4224 Ext. 236
Fax: (518)-431-4208
e-mail: Alicia.Nolan@fhwa.dot.gov

Sec. 108. (a)(1) For the purpose of establishing national primary and secondary ambient air quality standards, the Administrator shall within 30 days after the date of enactment of the Clean Air Amendments of 1970 publish, and shall from time to time thereafter revise, a list which includes each air pollutant -

(A) emissions of which, in his judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;

(B) the presence of which in the ambient air results from numerous or diverse mobile or stationary sources; and

(C) for which air quality criteria had not been issued before the date of enactment of the Clean Air Amendments of 1970, but for which he plans to issue air quality criteria under this section.

(2) The Administrator shall issue air quality criteria for an air pollutant within 12 months after he has included such pollutant in a list under paragraph (1). Air quality criteria for an air pollutant shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities. The criteria for an air pollutant, to the extent practicable, shall include information on -

(A) those variable factors (including atmospheric conditions) which of themselves or in combination with other factors may alter the effects on public health or welfare of such air pollutant;

(B) the types of air pollutants which, when present in the atmosphere, may interact with such pollutant to produce an adverse effect on public health or welfare; and

(C) any known or anticipated adverse effects on welfare.

(b)(1) Simultaneously with the issuance of criteria under subsection (a), the Administrator shall, after consultation with appropriate advisory committees and Federal departments and agencies, issue to the States and appropriate air pollution control agencies information on air pollution control techniques, which information shall include data relating to the cost of installation and operation, energy requirements, emission reduction benefits, and environmental impact of the emission control technology. Such information shall include such data as are available on available technology and alternative methods of prevention and control of air pollution. Such information shall also include data on alternative fuels, processes, and operating methods which will result in elimination or significant reduction of emissions.

(2) In order to assist in the development of information on pollution control techniques, the Administrator may establish a standing consulting committee for each air pollutant included in a list published pursuant to subsection (a)(1), which shall be comprised of technically qualified individuals representative of State and local governments, industry, and the economic community. Each such committee shall submit, as appropriate, to the Administrator information related to that required by paragraph (1).

(c) The Administrator shall from time to time review, and, as appropriate, modify, and reissue any criteria or information on control techniques issued pursuant to this section. Not later than six months after the date of the enactment of the Clean Air Act

Amendments of 1977, the Administrator shall revise and reissue criteria relating to concentrations of NO₂ over such period (not more than three hours) as he deems appropriate. Such criteria shall include a discussion of nitric and nitrous acids, nitrites, nitrates, nitrosamines, and other carcinogenic and potentially carcinogenic derivatives of oxides of nitrogen.

(d) The issuance of air quality criteria and information on air pollution control techniques shall be announced in the Federal Register and copies shall be made available to the general public.

(e) The Administrator shall, after consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, and with State and local officials, within nine months after enactment of the Clean Air Act Amendments of 1989 and periodically thereafter as necessary to maintain a continuous transportation-air quality planning process, update the June 1978 Transportation-Air Quality Planning Guidelines and publish guidance on the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards. Such guidelines shall include information on -

(1) methods to identify and evaluate alternative planning and control activities;

(2) methods of reviewing plans on a regular basis as conditions change or new information is presented;

(3) identification of funds and other resources necessary to implement the plan, including interagency agreements on providing such funds and resources;

(4) methods to assure participation by the public in all phases of the planning process; and

(5) such other methods as the Administrator determines necessary to carry out a continuous planning process.

(f)(1) The Administrator shall publish and make available to appropriate Federal, State, and local environmental and transportation agencies not later than one year after enactment of the Clean Air Act Amendments of 1990, and from time to time thereafter -

(A) information prepared, as appropriate, in consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, regarding the formulation and emission reduction potential of transportation control measures related to criteria pollutants and their precursors, including, but not limited to -

(i) programs for improved public transit;

(ii) restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high occupancy vehicles;

(iii) employer-based transportation management plans, including incentives;

(iv) trip-reduction ordinances;

(v) traffic flow improvement programs that achieve emission reductions;

(vi) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit service;

(vii) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration particularly during periods of peak use;

(viii) programs for the provision of all forms of high-occupancy, shared-ride services;

(ix) programs to limit portions of road surfaces or certain sections of the metropolitan area to the use of non-motorized vehicles or pedestrian use, both as to time and place;

(x) programs for secure bicycle storage facilities and other facilities, including bicycle lanes, for the convenience and protection of bicyclists, in both public and private areas;

(xi) programs to control extended idling of vehicles;

(xii) programs to reduce motor vehicle emissions, consistent with title II, which are caused by extreme cold start

conditions;

(xiii) employer-sponsored programs to permit flexible work schedules;

(xiv) programs and ordinances to facilitate non-automobile travel, provision and utilization of mass transit, and to generally reduce the need for single-occupant vehicle travel, as part of transportation planning and development efforts of a locality, including programs and ordinances applicable to new shopping centers, special events, and other centers of vehicle activity;

(xv) programs for new construction and major reconstructions of paths, tracks or areas solely for the use by pedestrian or other non-motorized means of transportation when economically feasible and in the public interest. For purposes of this clause, the Administrator shall also consult with the Secretary of the Interior; and

(xvi) program to encourage the voluntary removal from use and the marketplace of pre-1980 model year light duty vehicles and pre-1980 model light duty trucks.

(B) information on additional methods or strategies that will contribute to the reduction of mobile source related pollutants during periods in which any primary ambient air quality standard will be exceeded and during episodes for which an air pollution alert, warning, or emergency has been declared;

(C) information on other measures which may be employed to reduce the impact on public health or protect the health of sensitive or susceptible individuals or groups; and

(D) information on the extent to which any process, procedure, or method to reduce or control such air pollutant may cause an increase in the emissions or formation of any other pollutant.

(2) In publishing such information the Administrator shall also include an assessment of -

(A) the relative effectiveness of such processes, procedures, and methods;

(B) the potential effect of such processes, procedures, and methods on transportation system and the provision of transportation services; and

(C) the environmental, energy, and economic impact of such processes, procedures, and methods.

(3) The Secretary of Transportation and the Administrator shall submit to Congress by January 1, 1993, and every 3 years thereafter a report that -

(A) reviews and analyzes existing State and local air quality-related transportation programs, including specifically any analyses of whether adequate funding is available to complete transportation projects identified in State implementation plans in the time required by applicable State implementation plans and any Federal efforts to promote those programs;

(B) evaluates the extent to which the Department of Transportation's existing air quality-related transportation programs and such Department's proposed budget will achieve the goals of and compliance with this Act; and

(C) recommends what, if any, changes to such existing programs and proposed budget as well as any statutory authority relating to air quality-related transportation programs that would improve the achievement of the goals of and compliance with the Clean Air Act.

(4) In each report to Congress after the first report required under paragraph (3), the Secretary of Transportation shall include a description of the actions taken to implement the changes recommended in the preceding report.

(g) Assessment of Risks to Ecosystems.- The Administrator may

assess the risks to ecosystems from exposure to criteria air pollutants (as identified by the Administrator in the Administrator's sole discretion).

(h) RACT/BACT/LAER Clearinghouse.- The Administrator shall make information regarding emission control technology available to the States and to the general public through a central database. Such information shall include all control technology information received pursuant to State plan provisions requiring permits for sources, including operating permits for existing sources.
[42 U.S.C. 7408]